

Introduced by Senator Hill

February 25, 2015

An act to amend Sections 805 and 805.5 of, and to add Section 2216.5 to, the Business and Professions Code, and to amend Sections 1204, 1248.15, 1248.3, and 1248.35 of the Health and Safety Code, relating to health and care facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 396, as introduced, Hill. Health and care facilities: outpatient settings and surgical clinics.

Existing law provides for the licensure and regulation of clinics by the State Department of Public Health. A violation of those provisions is a misdemeanor. Existing law provides that certain types of specialty clinics, including surgical clinics, as defined, are eligible for licensure.

This bill would clarify that a surgical clinic is eligible for licensure by the department regardless of physician or dentist ownership.

The Medical Practice Act provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Existing law provides that it is unprofessional conduct for a physician and surgeon to perform procedures in any outpatient setting except in compliance with specified provisions. Existing law prohibits an association, corporation, firm, partnership, or person from operating, managing, conducting, or maintaining an outpatient setting in the state unless the setting is one of the specified settings, which includes, among others, a surgical clinic licensed by the State Department of Public Health or an outpatient setting accredited by an accreditation agency approved by the Division of Licensing of the Medical Board of California.

Existing law provides that an outpatient setting that is accredited shall be inspected by the accreditation agency and may be inspected by the Medical Board of California. Existing law requires that the inspections be conducted no less often than once every 3 years by the accreditation agency and as often as necessary by the Medical Board of California to ensure quality of care provided. Existing law requires that certificates for accreditation issued to outpatient settings by an accreditation agency shall be valid for not more than 3 years.

This bill would require that all subsequent inspections after the initial inspection for accreditation be unannounced. This bill would require an outpatient setting accredited by the division to pay certain fees and to comply with certain data submission requirements. The bill would also instead require that an initial certificate of accreditation by an accreditation agency be valid for not more than 2 years and that a renewal certificate be valid for not more than 3 years.

Existing law requires members of the medical staff and other practitioners who are granted clinical privileges in an outpatient setting to be professionally qualified and appropriately credentialed for the performance of privileges granted and requires the outpatient setting to grant privileges in accordance with recommendations from qualified health professionals, and credentialing standards established by the outpatient setting.

This bill would additionally require that each physician and surgeon who performs procedures in an outpatient setting that requires the outpatient setting to be accredited be peer reviewed by California licensed physicians who are qualified by education experience to perform the same types of procedures. By expanding the scope of a crime, this bill would impose a state-mandated local program.

Existing law requires specified entities, including any health care service plan or medical care foundation, to request a report from the Medical Board of California, the Board of Psychology, the Osteopathic Medical Board of California, or the Dental Board of California, prior to granting or renewing staff privileges, to determine if a certain report has been made indicating that the applying physician and surgeon, psychologist, podiatrist, or dentist has been denied staff privileges, been removed from a medical staff, or had his or her staff privileges restricted.

This bill would also require an outpatient setting and a facility certified to participate in the federal Medicare program as an ambulatory surgical center to request that report. By expanding the scope of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 805 of the Business and Professions Code
2 is amended to read:

3 805. (a) As used in this section, the following terms have the
4 following definitions:

5 (1) (A) “Peer review” means both of the following:

6 (i) A process in which a peer review body reviews the basic
7 qualifications, staff privileges, employment, medical outcomes,
8 or professional conduct of licentiates to make recommendations
9 for quality improvement and education, if necessary, in order to
10 do either or both of the following:

11 (I) Determine whether a licentiate may practice or continue to
12 practice in a health care facility, clinic, or other setting providing
13 medical services, and, if so, to determine the parameters of that
14 practice.

15 (II) Assess and improve the quality of care rendered in a health
16 care facility, clinic, or other setting providing medical services.

17 (ii) Any other activities of a peer review body as specified in
18 subparagraph (B).

19 (B) “Peer review body” includes:

20 (i) A medical or professional staff of any health care facility or
21 clinic licensed under Division 2 (commencing with Section 1200)
22 of the Health and Safety ~~Code or Code~~, of a facility certified to
23 participate in the federal Medicare program as an ambulatory
24 surgical ~~center~~; *center, or of an outpatient setting accredited*
25 *pursuant to Section 1248.1 of the Health and Safety Code.*

26 (ii) A health care service plan licensed under Chapter 2.2
27 (commencing with Section 1340) of Division 2 of the Health and
28 Safety Code or a disability insurer that contracts with licentiates
29 to provide services at alternative rates of payment pursuant to
30 Section 10133 of the Insurance Code.

(iii) Any medical, psychological, marriage and family therapy, social work, professional clinical counselor, dental, or podiatric professional society having as members at least 25 percent of the eligible licentiates in the area in which it functions (which must include at least one county), which is not organized for profit and which has been determined to be exempt from taxes pursuant to Section 23701 of the Revenue and Taxation Code.

(iv) A committee organized by any entity consisting of or employing more than 25 licentiates of the same class that functions for the purpose of reviewing the quality of professional care provided by members or employees of that entity.

(2) “Licentiate” means a physician and surgeon, doctor of podiatric medicine, clinical psychologist, marriage and family therapist, clinical social worker, professional clinical counselor, dentist, or physician assistant. “Licentiate” also includes a person authorized to practice medicine pursuant to Section 2113 or 2168.

(3) “Agency” means the relevant state licensing agency having regulatory jurisdiction over the licentiates listed in paragraph (2).

(4) “Staff privileges” means any arrangement under which a licentiate is allowed to practice in or provide care for patients in a health facility. Those arrangements shall include, but are not limited to, full staff privileges, active staff privileges, limited staff privileges, auxiliary staff privileges, provisional staff privileges, temporary staff privileges, courtesy staff privileges, locum tenens arrangements, and contractual arrangements to provide professional services, including, but not limited to, arrangements to provide outpatient services.

(5) “Denial or termination of staff privileges, membership, or employment” includes failure or refusal to renew a contract or to renew, extend, or reestablish any staff privileges, if the action is based on medical disciplinary cause or reason.

(6) “Medical disciplinary cause or reason” means that aspect of a licentiate’s competence or professional conduct that is reasonably likely to be detrimental to patient safety or to the delivery of patient care.

(7) “805 report” means the written report required under subdivision (b).

(b) The chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator

1 of any licensed health care facility or clinic shall file an 805 report
2 with the relevant agency within 15 days after the effective date on
3 which any of the following occur as a result of an action of a peer
4 review body:

5 (1) A licentiate's application for staff privileges or membership
6 is denied or rejected for a medical disciplinary cause or reason.

7 (2) A licentiate's membership, staff privileges, or employment
8 is terminated or revoked for a medical disciplinary cause or reason.

9 (3) Restrictions are imposed, or voluntarily accepted, on staff
10 privileges, membership, or employment for a cumulative total of
11 30 days or more for any 12-month period, for a medical disciplinary
12 cause or reason.

13 (c) If a licentiate takes any action listed in paragraph (1), (2),
14 or (3) after receiving notice of a pending investigation initiated
15 for a medical disciplinary cause or reason or after receiving notice
16 that his or her application for membership or staff privileges is
17 denied or will be denied for a medical disciplinary cause or reason,
18 the chief of staff of a medical or professional staff or other chief
19 executive officer, medical director, or administrator of any peer
20 review body and the chief executive officer or administrator of
21 any licensed health care facility or clinic where the licentiate is
22 employed or has staff privileges or membership or where the
23 licentiate applied for staff privileges or membership, or sought the
24 renewal thereof, shall file an 805 report with the relevant agency
25 within 15 days after the licentiate takes the action.

26 (1) Resigns or takes a leave of absence from membership, staff
27 privileges, or employment.

28 (2) Withdraws or abandons his or her application for staff
29 privileges or membership.

30 (3) Withdraws or abandons his or her request for renewal of
31 staff privileges or membership.

32 (d) For purposes of filing an 805 report, the signature of at least
33 one of the individuals indicated in subdivision (b) or (c) on the
34 completed form shall constitute compliance with the requirement
35 to file the report.

36 (e) An 805 report shall also be filed within 15 days following
37 the imposition of summary suspension of staff privileges,
38 membership, or employment, if the summary suspension remains
39 in effect for a period in excess of 14 days.

1 (f) A copy of the 805 report, and a notice advising the licentiate
2 of his or her right to submit additional statements or other
3 information, electronically or otherwise, pursuant to Section 800,
4 shall be sent by the peer review body to the licentiate named in
5 the report. The notice shall also advise the licentiate that
6 information submitted electronically will be publicly disclosed to
7 those who request the information.

8 The information to be reported in an 805 report shall include the
9 name and license number of the licentiate involved, a description
10 of the facts and circumstances of the medical disciplinary cause
11 or reason, and any other relevant information deemed appropriate
12 by the reporter.

13 A supplemental report shall also be made within 30 days
14 following the date the licentiate is deemed to have satisfied any
15 terms, conditions, or sanctions imposed as disciplinary action by
16 the reporting peer review body. In performing its dissemination
17 functions required by Section 805.5, the agency shall include a
18 copy of a supplemental report, if any, whenever it furnishes a copy
19 of the original 805 report.

20 If another peer review body is required to file an 805 report, a
21 health care service plan is not required to file a separate report
22 with respect to action attributable to the same medical disciplinary
23 cause or reason. If the Medical Board of California or a licensing
24 agency of another state revokes or suspends, without a stay, the
25 license of a physician and surgeon, a peer review body is not
26 required to file an 805 report when it takes an action as a result of
27 the revocation or suspension.

28 (g) The reporting required by this section shall not act as a
29 waiver of confidentiality of medical records and committee reports.
30 The information reported or disclosed shall be kept confidential
31 except as provided in subdivision (c) of Section 800 and Sections
32 803.1 and 2027, provided that a copy of the report containing the
33 information required by this section may be disclosed as required
34 by Section 805.5 with respect to reports received on or after
35 January 1, 1976.

36 (h) The Medical Board of California, the Osteopathic Medical
37 Board of California, and the Dental Board of California shall
38 disclose reports as required by Section 805.5.

39 (i) An 805 report shall be maintained electronically by an agency
40 for dissemination purposes for a period of three years after receipt.

1 (j) No person shall incur any civil or criminal liability as the
2 result of making any report required by this section.

3 (k) A willful failure to file an 805 report by any person who is
4 designated or otherwise required by law to file an 805 report is
5 punishable by a fine not to exceed one hundred thousand dollars
6 (\$100,000) per violation. The fine may be imposed in any civil or
7 administrative action or proceeding brought by or on behalf of any
8 agency having regulatory jurisdiction over the person regarding
9 whom the report was or should have been filed. If the person who
10 is designated or otherwise required to file an 805 report is a
11 licensed physician and surgeon, the action or proceeding shall be
12 brought by the Medical Board of California. The fine shall be paid
13 to that agency but not expended until appropriated by the
14 Legislature. A violation of this subdivision may constitute
15 unprofessional conduct by the licensee. A person who is alleged
16 to have violated this subdivision may assert any defense available
17 at law. As used in this subdivision, “willful” means a voluntary
18 and intentional violation of a known legal duty.

19 (l) Except as otherwise provided in subdivision (k), any failure
20 by the administrator of any peer review body, the chief executive
21 officer or administrator of any health care facility, or any person
22 who is designated or otherwise required by law to file an 805
23 report, shall be punishable by a fine that under no circumstances
24 shall exceed fifty thousand dollars (\$50,000) per violation. The
25 fine may be imposed in any civil or administrative action or
26 proceeding brought by or on behalf of any agency having
27 regulatory jurisdiction over the person regarding whom the report
28 was or should have been filed. If the person who is designated or
29 otherwise required to file an 805 report is a licensed physician and
30 surgeon, the action or proceeding shall be brought by the Medical
31 Board of California. The fine shall be paid to that agency but not
32 expended until appropriated by the Legislature. The amount of the
33 fine imposed, not exceeding fifty thousand dollars (\$50,000) per
34 violation, shall be proportional to the severity of the failure to
35 report and shall differ based upon written findings, including
36 whether the failure to file caused harm to a patient or created a
37 risk to patient safety; whether the administrator of any peer review
38 body, the chief executive officer or administrator of any health
39 care facility, or any person who is designated or otherwise required
40 by law to file an 805 report exercised due diligence despite the

1 failure to file or whether they knew or should have known that an
2 805 report would not be filed; and whether there has been a prior
3 failure to file an 805 report. The amount of the fine imposed may
4 also differ based on whether a health care facility is a small or
5 rural hospital as defined in Section 124840 of the Health and Safety
6 Code.

7 (m) A health care service plan licensed under Chapter 2.2
8 (commencing with Section 1340) of Division 2 of the Health and
9 Safety Code or a disability insurer that negotiates and enters into
10 a contract with licentiates to provide services at alternative rates
11 of payment pursuant to Section 10133 of the Insurance Code, when
12 determining participation with the plan or insurer, shall evaluate,
13 on a case-by-case basis, licentiates who are the subject of an 805
14 report, and not automatically exclude or deselect these licentiates.

15 SEC. 2. Section 805.5 of the Business and Professions Code
16 is amended to read:

17 805.5. (a) Prior to granting or renewing staff privileges for
18 any physician and surgeon, psychologist, podiatrist, or dentist, any
19 health facility licensed pursuant to Division 2 (commencing with
20 Section 1200) of the Health and Safety Code, ~~or any health care~~
21 ~~service plan or medical care foundation, or the medical staff of the~~
22 ~~institution~~ *institution, a facility certified to participate in the federal*
23 *Medicare program as an ambulatory surgical center, or an*
24 *outpatient setting accredited pursuant to Section 1248.1 of the*
25 *Health and Safety Code* shall request a report from the Medical
26 Board of California, the Board of Psychology, the Osteopathic
27 Medical Board of California, or the Dental Board of California to
28 determine if any report has been made pursuant to Section 805
29 indicating that the applying physician and surgeon, psychologist,
30 podiatrist, or dentist has been denied staff privileges, been removed
31 from a medical staff, or had his or her staff privileges restricted as
32 provided in Section 805. The request shall include the name and
33 California license number of the physician and surgeon,
34 psychologist, podiatrist, or dentist. Furnishing of a copy of the 805
35 report shall not cause the 805 report to be a public record.

36 (b) Upon a request made by, or on behalf of, an institution
37 described in subdivision (a) or its medical staff the board shall
38 furnish a copy of any report made pursuant to Section 805 as well
39 as any additional exculpatory or explanatory information submitted
40 electronically to the board by the licensee pursuant to subdivision

(f) of that section. However, the board shall not send a copy of a report (1) if the denial, removal, or restriction was imposed solely because of the failure to complete medical records, (2) if the board has found the information reported is without merit, (3) if a court finds, in a final judgment, that the peer review, as defined in Section 805, resulting in the report was conducted in bad faith and the licensee who is the subject of the report notifies the board of that finding, or (4) if a period of three years has elapsed since the report was submitted. This three-year period shall be tolled during any period the licensee has obtained a judicial order precluding disclosure of the report, unless the board is finally and permanently precluded by judicial order from disclosing the report. If a request is received by the board while the board is subject to a judicial order limiting or precluding disclosure, the board shall provide a disclosure to any qualified requesting party as soon as practicable after the judicial order is no longer in force.

If the board fails to advise the institution within 30 working days following its request for a report required by this section, the institution may grant or renew staff privileges for the physician and surgeon, psychologist, podiatrist, or dentist.

(c) Any institution described in subdivision (a) or its medical staff that violates subdivision (a) is guilty of a misdemeanor and shall be punished by a fine of not less than two hundred dollars (\$200) nor more than one thousand two hundred dollars (\$1,200).

SEC. 3. Section 2216.5 is added to the Business and Professions Code, to read:

2216.5. An outpatient setting accredited pursuant to Section 1248.1 of the Health and Safety Code is subject to the requirements of Section 1216, subdivision (f) of Section 127280, and Section 128737 of the Health and Safety Code.

SEC. 4. Section 1204 of the Health and Safety Code is amended to read:

1204. Clinics eligible for licensure pursuant to this chapter are primary care clinics and specialty clinics.

(a) (1) Only the following defined classes of primary care clinics shall be eligible for licensure:

(A) A “community clinic” means a clinic operated by a tax-exempt nonprofit corporation that is supported and maintained in whole or in part by donations, bequests, gifts, grants, government funds or contributions, that may be in the form of money, goods,

1 or services. In a community clinic, any charges to the patient shall
2 be based on the patient's ability to pay, utilizing a sliding fee scale.
3 No corporation other than a nonprofit corporation, exempt from
4 federal income taxation under paragraph (3) of subsection (c) of
5 Section 501 of the Internal Revenue Code of 1954 as amended, or
6 a statutory successor thereof, shall operate a community clinic;
7 provided, that the licensee of any community clinic so licensed on
8 the effective date of this section shall not be required to obtain
9 tax-exempt status under either federal or state law in order to be
10 eligible for, or as a condition of, renewal of its license. No natural
11 person or persons shall operate a community clinic.

12 (B) A "free clinic" means a clinic operated by a tax-exempt,
13 nonprofit corporation supported in whole or in part by voluntary
14 donations, bequests, gifts, grants, government funds or
15 contributions, that may be in the form of money, goods, or services.
16 In a free clinic there shall be no charges directly to the patient for
17 services rendered or for drugs, medicines, appliances, or
18 apparatuses furnished. No corporation other than a nonprofit
19 corporation exempt from federal income taxation under paragraph
20 (3) of subsection (c) of Section 501 of the Internal Revenue Code
21 of 1954 as amended, or a statutory successor thereof, shall operate
22 a free clinic; provided, that the licensee of any free clinic so
23 licensed on the effective date of this section shall not be required
24 to obtain tax-exempt status under either federal or state law in
25 order to be eligible for, or as a condition of, renewal of its license.
26 No natural person or persons shall operate a free clinic.

27 (2) Nothing in this subdivision shall prohibit a community
28 clinic or a free clinic from providing services to patients whose
29 services are reimbursed by third-party payers, or from entering
30 into managed care contracts for services provided to private or
31 public health plan subscribers, as long as the clinic meets the
32 requirements identified in subparagraphs (A) and (B). For purposes
33 of this subdivision, any payments made to a community clinic by
34 a third-party payer, including, but not limited to, a health care
35 service plan, shall not constitute a charge to the patient. This
36 paragraph is a clarification of existing law.

37 (b) The following types of specialty clinics shall be eligible for
38 licensure as specialty clinics pursuant to this chapter:

39 (1) (A) A "surgical clinic" means a clinic that is not part of a
40 hospital and that provides ambulatory surgical care for patients

1 who remain less than 24 hours. A surgical clinic does not include
2 any place or establishment owned or leased and operated as a clinic
3 or office by one or more physicians or dentists in individual or
4 group practice, regardless of the name used publicly to identify
5 the place or establishment, ~~provided, however, that physicians or~~
6 ~~dentists may, at their option, apply for licensure.~~ *establishment.*

7 *(B) A physician or dentist may, at his or her option, apply for*
8 *licensure. A surgical clinic shall be eligible for licensure by the*
9 *department regardless of physician or dentist ownership.*

10 (2) A “chronic dialysis clinic” means a clinic that provides less
11 than 24-hour care for the treatment of patients with end-stage renal
12 disease, including renal dialysis services.

13 (3) A “rehabilitation clinic” means a clinic that, in addition to
14 providing medical services directly, also provides physical
15 rehabilitation services for patients who remain less than 24 hours.
16 Rehabilitation clinics shall provide at least two of the following
17 rehabilitation services: physical therapy, occupational therapy,
18 social, speech pathology, and audiology services. A rehabilitation
19 clinic does not include the offices of a private physician in
20 individual or group practice.

21 (4) An “alternative birth center” means a clinic that is not part
22 of a hospital and that provides comprehensive perinatal services
23 and delivery care to pregnant women who remain less than 24
24 hours at the facility.

25 SEC. 5. Section 1248.15 of the Health and Safety Code is
26 amended to read:

27 1248.15. (a) The board shall adopt standards for accreditation
28 and, in approving accreditation agencies to perform accreditation
29 of outpatient settings, shall ensure that the certification program
30 shall, at a minimum, include standards for the following aspects
31 of the settings’ operations:

32 (1) Outpatient setting allied health staff shall be licensed or
33 certified to the extent required by state or federal law.

34 (2) (A) Outpatient settings shall have a system for facility safety
35 and emergency training requirements.

36 (B) There shall be onsite equipment, medication, and trained
37 personnel to facilitate handling of services sought or provided and
38 to facilitate handling of any medical emergency that may arise in
39 connection with services sought or provided.

1 (C) In order for procedures to be performed in an outpatient
2 setting as defined in Section 1248, the outpatient setting shall do
3 one of the following:

4 (i) Have a written transfer agreement with a local accredited or
5 licensed acute care hospital, approved by the facility's medical
6 staff.

7 (ii) Permit surgery only by a licensee who has admitting
8 privileges at a local accredited or licensed acute care hospital, with
9 the exception that licensees who may be precluded from having
10 admitting privileges by their professional classification or other
11 administrative limitations, shall have a written transfer agreement
12 with licensees who have admitting privileges at local accredited
13 or licensed acute care hospitals.

14 (iii) Submit for approval by an accrediting agency a detailed
15 procedural plan for handling medical emergencies that shall be
16 reviewed at the time of accreditation. No reasonable plan shall be
17 disapproved by the accrediting agency.

18 (D) ~~In addition to the requirements imposed in subparagraph~~
19 ~~(C), the~~ The outpatient setting shall submit for approval by an
20 accreditation agency at the time of accreditation a detailed plan,
21 standardized procedures, and protocols to be followed in the event
22 of serious complications or side effects from surgery that would
23 place a patient at high risk for injury or harm or to govern
24 emergency and urgent care situations. The plan shall include, at a
25 minimum, that if a patient is being transferred to a local accredited
26 or licensed acute care hospital, the outpatient setting shall do all
27 of the following:

28 (i) Notify the individual designated by the patient to be notified
29 in case of an emergency.

30 (ii) Ensure that the mode of transfer is consistent with the
31 patient's medical condition.

32 (iii) Ensure that all relevant clinical information is documented
33 and accompanies the patient at the time of transfer.

34 (iv) Continue to provide appropriate care to the patient until the
35 transfer is effectuated.

36 (E) All physicians and surgeons transferring patients from an
37 outpatient setting shall agree to cooperate with the medical staff
38 peer review process on the transferred case, the results of which
39 shall be referred back to the outpatient setting, if deemed
40 appropriate by the medical staff peer review committee. If the

1 medical staff of the acute care facility determines that inappropriate
2 care was delivered at the outpatient setting, the acute care facility's
3 peer review outcome shall be reported, as appropriate, to the
4 accrediting body or in accordance with existing law.

5 (3) The outpatient setting shall permit surgery by a dentist acting
6 within his or her scope of practice under Chapter 4 (commencing
7 with Section 1600) of Division 2 of the Business and Professions
8 Code or physician and surgeon, osteopathic physician and surgeon,
9 or podiatrist acting within his or her scope of practice under
10 Chapter 5 (commencing with Section 2000) of Division 2 of the
11 Business and Professions Code or the Osteopathic Initiative Act.
12 The outpatient setting may, in its discretion, permit anesthesia
13 service by a certified registered nurse anesthetist acting within his
14 or her scope of practice under Article 7 (commencing with Section
15 2825) of Chapter 6 of Division 2 of the Business and Professions
16 Code.

17 (4) Outpatient settings shall have a system for maintaining
18 clinical records.

19 (5) Outpatient settings shall have a system for patient care and
20 monitoring procedures.

21 (6) (A) Outpatient settings shall have a system for quality
22 assessment and improvement.

23 (B) (i) Members of the medical staff and other practitioners
24 who are granted clinical privileges shall be professionally qualified
25 and appropriately credentialed for the performance of privileges
26 granted. The outpatient setting shall grant privileges in accordance
27 with recommendations from qualified health professionals, and
28 credentialing standards established by the outpatient setting.

29 (ii) *Each physician and surgeon who performs procedures in*
30 *an outpatient setting that requires the outpatient setting to be*
31 *accredited shall be peer reviewed, as described in Section 805 of*
32 *the Business and Professions Code, including when the outpatient*
33 *setting has only one physician and surgeon. The peer review shall*
34 *be performed by California licensed physicians who are qualified*
35 *by education experience to perform the same types of procedures.*

36 (C) Clinical privileges shall be periodically reappraised by the
37 outpatient setting. The scope of procedures performed in the
38 outpatient setting shall be periodically reviewed and amended as
39 appropriate.

1 (7) Outpatient settings regulated by this chapter that have
2 multiple service locations shall have all of the sites inspected.

3 (8) Outpatient settings shall post the certificate of accreditation
4 in a location readily visible to patients and staff.

5 (9) Outpatient settings shall post the name and telephone number
6 of the accrediting agency with instructions on the submission of
7 complaints in a location readily visible to patients and staff.

8 (10) Outpatient settings shall have a written discharge criteria.

9 (b) Outpatient settings shall have a minimum of two staff
10 persons on the premises, one of whom shall either be a licensed
11 physician and surgeon or a licensed health care professional with
12 current certification in advanced cardiac life support (ACLS), as
13 long as a patient is present who has not been discharged from
14 supervised care. Transfer to an unlicensed setting of a patient who
15 does not meet the discharge criteria adopted pursuant to paragraph
16 (10) of subdivision (a) shall constitute unprofessional conduct.

17 (c) An accreditation agency may include additional standards
18 in its determination to accredit outpatient settings if these are
19 approved by the board to protect the public health and safety.

20 (d) No accreditation standard adopted or approved by the board,
21 and no standard included in any certification program of any
22 accreditation agency approved by the board, shall serve to limit
23 the ability of any allied health care practitioner to provide services
24 within his or her full scope of practice. Notwithstanding this or
25 any other provision of law, each outpatient setting may limit the
26 privileges, or determine the privileges, within the appropriate scope
27 of practice, that will be afforded to physicians and allied health
28 care practitioners who practice at the facility, in accordance with
29 credentialing standards established by the outpatient setting in
30 compliance with this chapter. Privileges may not be arbitrarily
31 restricted based on category of licensure.

32 (e) The board shall adopt standards that it deems necessary for
33 outpatient settings that offer in vitro fertilization.

34 (f) The board may adopt regulations it deems necessary to
35 specify procedures that should be performed in an accredited
36 outpatient setting for facilities or clinics that are outside the
37 definition of outpatient setting as specified in Section 1248.

38 (g) As part of the accreditation process, the accrediting agency
39 shall conduct a reasonable investigation of the prior history of the
40 outpatient setting, including all licensed physicians and surgeons

1 who have an ownership interest therein, to determine whether there
2 have been any adverse accreditation decisions rendered against
3 them. For the purposes of this section, “conducting a reasonable
4 investigation” means querying the Medical Board of California
5 and the Osteopathic Medical Board of California to ascertain if
6 either the outpatient setting has, or, if its owners are licensed
7 physicians and surgeons, if those physicians and surgeons have,
8 been subject to an adverse accreditation decision.

9 SEC. 6. Section 1248.3 of the Health and Safety Code is
10 amended to read:

11 1248.3. (a) ~~Certificates~~ *An initial certificate* of accreditation
12 issued to ~~an outpatient settings~~ *setting* by an accreditation agency
13 shall be valid for not more than *two years, and a renewal certificate*
14 *shall be valid for not more than* three years.

15 (b) The outpatient setting shall notify the accreditation agency
16 within 30 days of any significant change in ownership, including,
17 but not limited to, a merger, change in majority interest,
18 consolidation, name change, change in scope of services, additional
19 services, or change in locations.

20 (c) Except for disclosures to the division or to the Division of
21 Medical Quality under this chapter, an accreditation agency shall
22 not disclose information obtained in the performance of
23 accreditation activities under this chapter that individually identifies
24 patients, individual medical practitioners, or outpatient settings.
25 Neither the proceedings nor the records of an accreditation agency
26 or the proceedings and records of an outpatient setting related to
27 performance of quality assurance or accreditation activities under
28 this chapter shall be subject to discovery, nor shall the records or
29 proceedings be admissible in a court of law. The prohibition
30 relating to discovery and admissibility of records and proceedings
31 does not apply to any outpatient setting requesting accreditation
32 in the event that denial or revocation of that outpatient setting’s
33 accreditation is being contested. Nothing in this section shall
34 prohibit the accreditation agency from making discretionary
35 disclosures of information to an outpatient setting pertaining to
36 the accreditation of that outpatient setting.

37 SEC. 7. Section 1248.35 of the Health and Safety Code is
38 amended to read:

39 1248.35. (a) Every outpatient setting ~~which~~ *that* is accredited
40 shall be inspected by the accreditation agency and may also be

1 inspected by the Medical Board of California. The Medical Board
2 of California shall ensure that accreditation agencies inspect
3 outpatient settings.

4 (b) Unless otherwise specified, the following requirements apply
5 to inspections described in subdivision (a).

6 (1) The frequency of inspection shall depend upon the type and
7 complexity of the outpatient setting to be inspected.

8 (2) Inspections shall be conducted no less often than once every
9 three years by the accreditation agency and as often as necessary
10 by the Medical Board of California to ensure the quality of care
11 provided. *After the initial inspection for accreditation, all*
12 *subsequent inspections shall be unannounced.*

13 (3) The Medical Board of California or the accreditation agency
14 may enter and inspect any outpatient setting that is accredited by
15 an accreditation agency at any reasonable time to ensure
16 compliance with, or investigate an alleged violation of, any
17 standard of the accreditation agency or any provision of this
18 chapter.

19 (c) If an accreditation agency determines, as a result of its
20 inspection, that an outpatient setting is not in compliance with the
21 standards under which it was approved, the accreditation agency
22 may do any of the following:

23 (1) Require correction of any identified deficiencies within a
24 set timeframe. Failure to comply shall result in the accrediting
25 agency issuing a reprimand or suspending or revoking the
26 outpatient setting's accreditation.

27 (2) Issue a reprimand.

28 (3) Place the outpatient setting on probation, during which time
29 the setting shall successfully institute and complete a plan of
30 correction, approved by the board or the accreditation agency, to
31 correct the deficiencies.

32 (4) Suspend or revoke the outpatient setting's certification of
33 accreditation.

34 (d) (1) Except as is otherwise provided in this subdivision,
35 before suspending or revoking a certificate of accreditation under
36 this chapter, the accreditation agency shall provide the outpatient
37 setting with notice of any deficiencies and the outpatient setting
38 shall agree with the accreditation agency on a plan of correction
39 that shall give the outpatient setting reasonable time to supply
40 information demonstrating compliance with the standards of the

1 accreditation agency in compliance with this chapter, as well as
2 the opportunity for a hearing on the matter upon the request of the
3 outpatient setting. During the allotted time to correct the
4 deficiencies, the plan of correction, which includes the deficiencies,
5 shall be conspicuously posted by the outpatient setting in a location
6 accessible to public view. Within 10 days after the adoption of the
7 plan of correction, the accrediting agency shall send a list of
8 deficiencies and the corrective action to be taken to the board and
9 to the California State Board of Pharmacy if an outpatient setting
10 is licensed pursuant to Article 14 (commencing with Section 4190)
11 of Chapter 9 of Division 2 of the Business and Professions Code.
12 The accreditation agency may immediately suspend the certificate
13 of accreditation before providing notice and an opportunity to be
14 heard, but only when failure to take the action may result in
15 imminent danger to the health of an individual. In such cases, the
16 accreditation agency shall provide subsequent notice and an
17 opportunity to be heard.

18 (2) If an outpatient setting does not comply with a corrective
19 action within a timeframe specified by the accrediting agency, the
20 accrediting agency shall issue a reprimand, and may either place
21 the outpatient setting on probation or suspend or revoke the
22 accreditation of the outpatient setting, and shall notify the board
23 of its action. This section shall not be deemed to prohibit an
24 outpatient setting that is unable to correct the deficiencies, as
25 specified in the plan of correction, for reasons beyond its control,
26 from voluntarily surrendering its accreditation prior to initiation
27 of any suspension or revocation proceeding.

28 (e) The accreditation agency shall, within 24 hours, report to
29 the board if the outpatient setting has been issued a reprimand or
30 if the outpatient setting's certification of accreditation has been
31 suspended or revoked or if the outpatient setting has been placed
32 on probation. If an outpatient setting has been issued a license by
33 the California State Board of Pharmacy pursuant to Article 14
34 (commencing with Section 4190) of Chapter 9 of Division 2 of
35 the Business and Professions Code, the accreditation agency shall
36 also send this report to the California State Board of Pharmacy
37 within 24 hours.

38 (f) The accreditation agency, upon receipt of a complaint from
39 the board that an outpatient setting poses an immediate risk to
40 public safety, shall inspect the outpatient setting and report its

1 findings of inspection to the board within five business days. If an
2 accreditation agency receives any other complaint from the board,
3 it shall investigate the outpatient setting and report its findings of
4 investigation to the board within 30 days.

5 (g) Reports on the results of any inspection shall be kept on file
6 with the board and the accreditation agency along with the plan
7 of correction and the comments of the outpatient setting. The
8 inspection report may include a recommendation for reinspection.
9 All final inspection reports, which include the lists of deficiencies,
10 plans of correction or requirements for improvements and
11 correction, and corrective action completed, shall be public records
12 open to public inspection.

13 (h) If one accrediting agency denies accreditation, or revokes
14 or suspends the accreditation of an outpatient setting, this action
15 shall apply to all other accrediting agencies. An outpatient setting
16 that is denied accreditation is permitted to reapply for accreditation
17 with the same accrediting agency. The outpatient setting also may
18 apply for accreditation from another accrediting agency, but only
19 if it discloses the full accreditation report of the accrediting agency
20 that denied accreditation. Any outpatient setting that has been
21 denied accreditation shall disclose the accreditation report to any
22 other accrediting agency to which it submits an application. The
23 new accrediting agency shall ensure that all deficiencies have been
24 corrected and conduct a new onsite inspection consistent with the
25 standards specified in this chapter.

26 (i) If an outpatient setting's certification of accreditation has
27 been suspended or revoked, or if the accreditation has been denied,
28 the accreditation agency shall do all of the following:

29 (1) Notify the board of the action.

30 (2) Send a notification letter to the outpatient setting of the
31 action. The notification letter shall state that the setting is no longer
32 allowed to perform procedures that require outpatient setting
33 accreditation.

34 (3) Require the outpatient setting to remove its accreditation
35 certification and to post the notification letter in a conspicuous
36 location, accessible to public view.

37 (j) The board may take any appropriate action it deems necessary
38 pursuant to Section 1248.7 if an outpatient setting's certification
39 of accreditation has been suspended or revoked, or if accreditation
40 has been denied.

1 SEC. 8. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

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